

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

| | | |
|----------------|---|-------------------|
| In Re: |) | |
| |) | Case No. 18-30241 |
| BK RACING, LLC |) | Chapter 11 |
| |) | |
| Debtor. |) | |

OBJECTION TO CONFIRMATION

The Henderson Law Firm, PLLC (“Henderson”) objects to the Confirmation of the proposed plan for the following reasons:

1. Henderson is the former attorney for the Debtor and the holder of a Chapter 11 administrative expense claim.

2. The Amended Disclosure Statement states in part that:

The purchasers of the Titled Vehicles assigned purchase prices to the Titled Vehicles totaling \$326,053, in the aggregate. Iron Horse Auction Company, Inc., a professional auctioneering and appraisal firm retained by the Trustee in this Bankruptcy Case, estimated the values of the Titled Vehicles to total \$576,000, in the aggregate.

3. The Amended Disclosure Statement further states in part that:

A substantial unresolved question in this Bankruptcy Case is whether the IRS’s filings in Virginia were effective to perfect its tax liens, and that question is a highly fact-intensive inquiry for which no clear answer is apparent.

4. The proposed Plan purports to settle the IRS lien issue by providing in part that \$450,000.00 will be paid to the IRS on the Effective Date, in addition to the IRS receiving an \$86,000.00 “New IRS Lien”. The proposed settlement with the IRS appears to pay the IRS all of the proceeds from the liquidation of the Titled Vehicles, on account of a disputed lien claim. These proceeds from the liquidation of the Titled Vehicles would otherwise be available to satisfy allowed Administrative Claims. The proposed settlement with the IRS is not a settlement, but a capitulation by the estate and trustee to the alleged lien of the IRS. This settlement does not meet the settlement standards in the Fourth Circuit.

5. The treatment of Section 1.2.1 Administrative Claims should be the same for all holders of allowed Administrative Claims.

6. The Disclosure Statement states in part that:

Pursuant to the Consent Order Authorizing Trustee to Use Cash Collateral as Advance on Professional Fees and Expenses entered in the Bankruptcy Case on October 1, 2019 (D.E. 340), \$100,000 of the Sale Proceeds was paid to Grier in partial satisfaction of fees

previously allowed by the Court and \$100,000 was paid to Finley as an advance toward any portion of the Finley Fee App that may ultimately be allowed by the Court. The \$275,000 (for Finley) and \$125,000 (for Grier) figures listed above include these advances.

7. The Court has previously entered Orders allowing the payment of other administrative expenses, including claims of Iron Horse Auction Company, Inc., Race Engines Plus, LLC, The Finley Group, Inc. and BEAL, LLC.

8. There have been no advances or payments towards the Henderson Administrative Claim. As such, it appears that the proposed plan does not treat all allowed Administrative Claims equitably.

WHEREFORE, Henderson objects to the confirmation of the proposed plan.

Dated: January 21, 2020.

THE HENDERSON LAW FIRM

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